

Remarks

Election (Restriction)-Invention

Paragraphs 1-3 of the Office Action.

In response to the requirement to restrict this Application and to elect one of the inventions of Claims 1-26 or to the Claims 27-28, Applicant elects the invention of Claims 1-26. Further, Applicant respectfully traverses the requirement to restrict.

The invention of Claims 27-28 is not different from the invention of Claims 1-26 and merely set forth an alternative for holding the telescoped members in place by calling for “means for securing each telescoping member at a selected telescoped position.” Consistent with this statement, Claims 27-28 have been cancelled and the patentable features of these claims are being set forth in newly added dependent Claims 29 and 30.

No additional fee is required. There remains 28 total claims and fewer than 3 independent claims as presented with the filing of the Application.

It is stated in Paragraph 9 of the Office Action that a telephone call was made for the attorney/agent responsible for this application to request an oral election to the above restriction requirement but did not result in an election being made. Applicant’s attorney acknowledges that a phone call was made. It was recorded at attorney’s office at 6:34 a.m., before office hours, on Wednesday, November 24, 2004, without a clear indication of the Examiner’s name and without a return phone number. Then on Friday, November 26, 2004, the Office Action was mailed. Applicant’s attorney would have appreciated the opportunity to discuss this matter during office hours, on the phone, to avoid the expense of a written response.

Election-Species.

Paragraphs 4-8 of the Office Action.

In the Office Action it is asserted that there are 3 species disclosed, namely:

Species A – directed towards Figures 1-5 and 8-27;

Species B – directed towards Figures 6-7 and 28-30;

Species C – directed towards Figures 31-34.

This assertion is respectfully traversed. The basic concept is covered by Figures 1-5 and 8-27 with additional patentable features shown in Figures 6-7 and 28-30 and in Figures 31-34 as part of the basic concept. The generic concept or the asserted Species A of Figures 1-5 and 8-27 are elected for this Application as required by 35 USC §121. The claims readable on this species are 1-13, 16-26 and newly added Claims 29 and 30. Dependent Claims 14 and 15 call for all of the features of generic Claim 1, as these claims depend from Claim 1, and call for the additional elements for a heavy load support. The basic concept as set forth on Page 3 of the Specification at Lines 11-16, is “The ability to increase the cargo area without loading the tailgate in a simple, versatile and economical way is desired. This is accomplished by attaching two members to the cargo bed with the members aligned in the front to rear direction of the cargo bed. A member telescopes from each attached member and a cross member is fixed to the end of each member that is remote from its respective attached member.”

The moveable member is held in its telescoped position in alternative ways. The first way is set forth at Lines 16-19 on Page 3 as follows, “The telescoped position of each movable member relative to its associated attached member is fixed by a pin penetrating a hole in each movable member. The movable member is held against the pin by a securing arm that goes over the movable member in the area of the pin.”

An alternative way of holding the moveable member in its telescoped position is set forth on Page 3, Lines 19-22 as follows: “Alternatively, the pins are held in place by a spring-loaded lever that is biased down toward the moveable member or by a pin that is pushed into its housing and against a spring that holds the pin away from the movable member.”

The generic concept of Figs. 1-5 and 8-27 and 31-34 is expanded upon by adding a heavy load support (Figs 6-7 and 28-30), as stated on Page 4, Lines 13-19, “For heavy loads that exceed the carrying capacity of the attached and movable members and cross member, a two armed support is provided. The two arms have telescoping members, with the inner members extending from the receiver box for a hitch at the rear of the cargo bed. The telescoping members extend to the opposite ends of the cross member inside the attachment to the ends of the two movable members and are held in place by the connection between the two ends of the cross member and the respective ends of a movable member.”

In the detailed description of the invention set forth in the Specification, after describing the generic concept and the alternative ways of holding the moveable member in its telescoped position, the heavy load is described. This appears on Page 17 starting at Line 18 as follows: “A heavy load support is shown in Figs. 28-30 and is shown in use in Figs. 6 and 7. This heavy load support is used when the load to be carried by the cargo bed extender exceeds the carrying capacity of the members of the cargo bed extender. For example, the cargo bed extender described above can carry loads up to 400 lbs when fully extended to 4 feet beyond the rear end of the cargo bed. The carrying capacity is greater for shorter extensions of the movable members 3 and 4 beyond the cargo bed. However, where heavy loads are to be carried, the heavy load support will be used. The heavy load support is designed to fit in the receiver hitch at the rear end of the cargo transport, such as a pickup truck. The heavy load support includes a square

steel coupler 33 that fits in the square receiver hitch of the cargo transport. Attached to the square coupler 33 are two legs 34 and 35 that may be spread apart as needed to fit between the receiver hitch and the cross member 5 of the cargo bed extender. The support further includes legs 36 and 37 that telescope in the legs 34 and 35 to adjust for various lengths of cargo bed extenders. Legs 34 and 35 are pivotally mounted to the coupler 33 at points 38 and 39. Leg 34 is attached to coupler 33 by a bracket 76 and a pin 77. Similarly, leg 35 is connected to coupler 33 by a bracket 78 and pin 77. Brackets 76 and 78 provide pivot pins (not shown) at pivot points 38 and 39, respectively. Legs 36 and 37 are held in the selected position by set screws 79 and 80 that engage legs 34 and 35, respectively. Legs 36 and 37 are cut at the remote end to form a semi-circular surface 75 that accommodates the outside circular surface of cross member 5. Each leg 36 and 37 engage the cross member at opposite ends inside the connection to the movable members 3 and 4. Since cross member 5 is attached to movable members 3 and 4, the movable members 3 and 4 will hold the legs 36 and 37 in place out against the movable members 3 and 4 at the cross member 5."

Consideration of the claims as elected and consideration of the claims that are dependent from the elected claims and covering the additional features of a heavy load device and allowance of these claims are respectfully solicited.

Date: December 17, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edwin L. Hartz", with a long horizontal flourish extending to the right.

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